

MAY 10 1985

CERTIFIED

Person to Contact: [REDACTED]

Telephone No.: [REDACTED]

Refer Reply to: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

Your Articles of Incorporation state the following: "This corporation is organized exclusively for charitable and education (sic) purposes including, but not limited to, providing of counseling services, information and referral services, job placement services and developing self-help support groups for ex-offender residents of [REDACTED] and northeastern [REDACTED], within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Laws.)"

Your activities, as described in form 1023, are mainly proposed ones. You state, "we will offer referrals to social agencies, assistance to find jobs, housing and counseling for alcohol and drug problems. The Association's goal is to serve as a broker of services, not duplicate already existing services." Further you state, "We will work with the family of ex-offenders, potential employers, schools, universities, trade schools, various community social services agencies and clergy to enable the ex-offenders to successfully return to society. We will provide jobs within the agency." You state, "Our goal is to have a halfway house for men and women coming out of the prison system."

In a developmental letter dated [REDACTED], you were asked by the determination specialist to provide the following information:

- (1) representative grant proposals or applications you have made;
- (2) a description of specifically what is meant by your goal to serve as a broker of services;
- (3) a listing of specific jobs you will be providing within your agency;
- (4) a listing of the specific social services agencies with whom you will be working;
- (5) an itemization of expenses for your first year;
- (6) a copy of your rental lease;

- [REDACTED]
- (7) a complete description of job duties, qualifications, number of hours to be worked for each proposed salaried position
  - (8) an explanation as to when the halfway house is expected to be a reality since your proposed budget for [REDACTED] and [REDACTED] has no expenses applicable to the operation of a halfway house.

The response by your organization regarding these numbered items was as follows:

- 1) No response was made.
- 2) "(sic) What we do as a broker of services is to send a client to agencies that can help him/her with their problems."
- 3) "(sic) The types of jobs we will perform within the [REDACTED] its counselors, advocates, and an assistance director. The agencies will require three years out of prison and if they have alcohol and drug problems they will need three years of abstain from alcohol and drugs".
- 4) "(sic) [REDACTED] has been working on a volunteer basis with staff 40 hr/wk. I been working as volunteer coordinator for the agencies. I got this agency started myself. I been putting in about 12 hrs/a day, Monday thru Fri." It is still not clear with what social services agencies you will work.
- 5) You sent an itemization of expenses for [REDACTED]. You also stated, "(sic) At this time we have been sending clients to qualify counselors and agencies who can help are clients. When we get our tax exempt number we can apply for grants and then we can hire a full time staff."
- 6) A copy of rental lease was sent.
- 7) You did not provide a complete description of job duties and qualifications needed for each proposed salaried position.
- 8) You stated you "(sic) hope in [REDACTED] we can open a halfway house for our clients. We would like to get our tax exempt number for [REDACTED] only. When we do have funding available then we can apply for funding for the halfway house. Then we will apply for a tax exempt number for the halfway house".

Section 501(c)(3) of the Code provides for the exception from Federal Income Tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes. No part of the net earnings of such donors to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:

"(a) Organizational and operational tests. (1) In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501 (c) (3)...."

"(h) Operational test. (1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals..."

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in Section 501(c)(3), the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either organizational or the operational test it is not exempt.

We wish to call your attention to Revenue Procedure 80-25 1980-1 C.B. 667 which reads, in part, as follows:

Section 3 Exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirement of the section under which exemption is claimed. A more restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned for carrying out the activities; the anticipated source of receipts; and the nature of completed expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling or determination letter will be considered an adverse determination from which administrative appeal rights will be offered.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes with the meaning of Section 501(c)(3).

You are required to file Federal Income Tax Returns. Contributions made to you are not deductible by donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within thirty days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and it appears that the opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers.

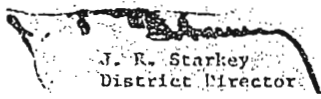
If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

Sincerely yours,



J. R. Starkey  
District Director

Enclosures. Form 6018  
Publication 892